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New York

President: Mr. Kavan ..... (Czech Republic)

The meeting was called to order at 10.15 a.m.

Agenda item 13

Report of the International Court of Justice

Report of the International Court of Justice (A/57/4)

Report of the Secretary-General (A/57/373)

The President: May I take it that the General Assembly takes note of the report of the International Court of Justice for the period 1 August 2001 to 31 July 2002?

It was so decided.

The President: In connection with this item the Assembly also has before it the report of the Secretary-General (A/57/373) on the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice.

I now call on Mr. Gilbert Guillaume, President of the International Court of Justice.

Mr. Guillaume (*spoke in French*): It is an honour for me once again to address the General Assembly on the occasion of its examination of the latest report of the International Court of Justice, for the period 1 August 2001 to 31 July 2002 (A/57/4).

It is a particular pleasure to address the Assembly today under the presidency of Mr. Jan Kavan, former Deputy Prime Minister and Minister for Foreign Affairs of the Czech Republic. I congratulate you, Sir, on your well-merited election to the presidency of the fifty-seventh session of the Assembly and wish you every success in the high office with which he has been entrusted.

Every year for close to a decade the Assembly has accorded the President of the Court the opportunity to address it, thereby demonstrating its particular attachment to the Court, the Organization's principal judicial organ, an honour for which we are most grateful. The Court has made its usual annual report to the Assembly, accompanied by a summary, from which it can be seen that our docket remains extremely full and our activity sustained. Addressing the Assembly a year ago, I reported a total of 22 cases entered on our list; today the figure now is 24.

Those cases come from every continent and touch on an extremely wide range of issues. A classic type of dispute involves proceedings between States concerning the treatment of foreign nationals and property. We have two examples of this kind, one between Guinea and the Democratic Republic of the Congo, the other between Liechtenstein and Germany.

Another source of much litigation is territorial and boundary disputes, both land and maritime. We currently have four such disputes before us: between Indonesia and Malaysia; Nicaragua and Honduras; Nicaragua and Colombia; and Benin and Niger. The last two of these cases are new ones, and I should, in passing, like to take this opportunity to congratulate Benin and Niger on their decision, taken by joint

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agreement, to submit their frontier dispute to a chamber of the Court.

Other cases are linked more directly to events concerning the maintenance of international peace and security which this Assembly or the Security Council has had to address, including the destruction of Iranian oil platforms in 1987 and 1988; the consequences of the explosion of a United States civil aircraft over Lockerbie in Scotland; the crises in Bosnia and Herzegovina and in Kosovo; and the situation in the Great Lakes region of Africa, which has recently been the subject of new proceedings brought by the Democratic Republic of the Congo against Rwanda.

Thus, since August 2001 the Court has once again witnessed an increase in the number of cases on its list, despite its intense and sustained judicial activity throughout the past year. In all, while receiving three new cases during this period, the Court has given final decisions on the merits in two difficult cases, as well as ruling on an application for permission to intervene and on the admissibility of various counter-claims. It has also dealt with a request for the indication of provisional measures. These have been important decisions, about which I should like to say a few words.

I would first remind the Assembly of the Judgment handed down by the Court on 23 October 2001 in proceedings between Indonesia and Malaysia regarding sovereignty over Pulau Ligitan and Pulau Sipadan. The Philippines had sought to intervene in this case, while at the same time making it clear that it had no claim over the islands in question. Giving a broad interpretation to Article 62 of its Statute, the Court accepted that a State may intervene not only when the operative part of a judgment is capable of affecting its legal interests, but also where those interests relate to the reasoning constituting the necessary underpinning of that operative decision. The Court held, however, that in the particular case the Philippines had not established that it had such an interest and that its request to intervene could not therefore be accepted, though the proceedings have enabled the Court to become cognizant of the Philippine position.

The judicial year just ended was marked by a second Judgment, rendered on 14 February 2002, settling a dispute between the Democratic Republic of the Congo and Belgium concerning an international arrest warrant issued on 11 April 2000 by the Belgian judicial authorities against Mr. Abdulaye Yerodia Ndombasi, who was at the time the Congo's Foreign Minister. In that Judgment the Court held that the issue of the warrant and its international circulation had constituted a violation by Belgium of the immunity from criminal jurisdiction and the inviolability enjoyed by Foreign Ministers under customary international law.

The Judgment thereby settled an important issue of current interest, one which international judges were addressing for the first time: the question of the immunity from jurisdiction of Ministers for Foreign Affairs. In that regard the Court held that

> "the functions of a Minister for Foreign Affairs are such that, throughout the duration of his or her office, he or she when abroad enjoys full immunity from criminal jurisdiction and inviolability. That immunity and that inviolability protect the individual concerned against any act of authority of another State which would hinder him or her in the performance of his or her duties" (*International Court of Justice Judgment of 14 February 2002, para. 54*),

irrespective of the offence with which such individual is charged.

The Court made it clear, however, that immunity does not signify impunity: a Minister in office can, of course, be tried before the criminal courts of his own country, in accordance with the law of that country. Furthermore, his immunity may in a particular case be waived by his national authorities in favour of a foreign jurisdiction. Immunity may also be lifted in the case of proceedings before international courts or tribunals if their founding statutes so provide. Finally, where a person ceases to hold the office of Foreign Minister, he or she will lose all immunity before competent foreign courts in respect of acts committed prior or subsequent to his or her period of office, as well as in respect of acts committed during that period of office in a private capacity.

In the domain of international peace and security, the Court also handed down a number of decisions in the course of the year 2001 concerning the African Great Lakes region.

First came an Order issued on 20 November 2001 in the dispute between the Democratic Republic of the

Congo and Uganda. The respondent State had submitted counter-claims, and the Court had to decide on the admissibility of those claims. It held admissible those claims which were directly connected with the principal claim and dismissed the others.

Subsequently, the Court had to address a request for the indication of provisional measures by the Democratic Republic of the Congo against Rwanda. By Order of 10 July 2002 the Court rejected the request on grounds of lack of prima facie jurisdiction. At the same time it dismissed Rwanda's submissions seeking to have the case removed from the list on grounds of manifest lack of jurisdiction.

The Court took the opportunity to remind the parties that there is a fundamental distinction between the question of acceptance by a State of the Court's jurisdiction and that of the compatibility of certain acts with international law. Whether or not States accept the jurisdiction of the Court, they are bound to comply with the United Nations Charter and remain responsible for acts attributable to them which are in breach of international law.

These two cases are continuing.

The Court's most recent Judgment was in the case of the Land and Maritime Boundary between Cameroon and Nigeria.

In 1994 Cameroon seized the Court of a legal dispute with Nigeria in regard to sovereignty over the Bakassi Peninsula. Cameroon subsequently widened the scope of its Application, requesting the Court to determine the land boundary between the two States from Lake Chad to the sea and to delimit their respective maritime areas. It also claimed reparation from Nigeria on account of damage suffered as a result of the occupation of Bakassi and Lake Chad, as well as of various frontier incidents. Nigeria responded by raising eight preliminary objections on grounds of lack of jurisdiction and inadmissibility, which were addressed by the Court in a judgment of 11 June 1998. Nigeria went on to submit a request for interpretation of this initial judgment, on which the Court ruled on 25 March 1999. Nigeria then submitted counter-claims and Equatorial Guinea an application for permission to intervene, whose admissibility we had to address.

The written pleadings exceeded 6,000 pages; the hearings lasted five weeks and the deliberations seven months. On 10 October 2002 the Court handed down its judgment, which runs to over 150 pages.

The Court held that the boundary between Cameroon and Nigeria had been fixed by treaties concluded during the colonial period, whose validity it confirmed. In consequence, the Court decided, by 13 votes to 3, that, pursuant to the Anglo-German Agreement of 11 March 1913, sovereignty over Bakassi lay with Cameroon. Likewise, the Court determined, by 14 votes to 2, the boundary in the Lake Chad area in accordance with a Franco-British Exchange of Notes of 9 January 1931 and rejected Nigeria's claims in that area. The Court also unanimously defined with extreme precision the course of the land boundary between the two States in 17 other disputed sectors.

The Court then went on to determine the maritime boundary between the two States. It began by confirming the validity of the Yaoundé II and Maroua Declarations, whereby the heads of State of Cameroon and Nigeria had, in 1971 and 1975, agreed on the maritime boundary separating the territorial seas of the two States. Then, in regard to the maritime boundaries further out to sea, the Court adopted as the delimitation line the equidistance line between Cameroon and Nigeria, which appeared to it in this case to produce equitable results as between the two States.

Drawing upon the consequences of its determination of the land boundary, the Court held that each of the two States is under an obligation expeditiously and without condition to withdraw its administration and military and police forces from areas falling within the sovereignty of the other.

In the reasoning of its judgment, the Court also noted that the implementation of the judgment would provide the parties with a beneficial opportunity for cooperation. It took note of Cameroon's undertaking at the hearings that, "faithful to its traditional policy of hospitality and tolerance", it "will continue to afford protection to Nigerians living in the Bakassi Peninsula and in the Lake Chad area".

Finally, the Court rejected each party's State responsibility claims against the other.

This Judgment is final. It is binding on the parties and thus brings legal closure to the frontier dispute between the two countries.

Having thus analysed the most important of the Court's decisions in the course of the past year, I will not now burden the Assembly with details of the other decisions — and in particular the other 15 orders, of extremely varied content — which we have rendered.

I would simply add that we are planning, in the next few weeks, to hand down our judgment on the merits in the case concerning sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia). At the beginning of next month, we shall be holding hearings on the request submitted by the Federal Republic of Yugoslavia for revision of the Court's judgment of 11 July 1996, in which we had found that we had jurisdiction to hear the application by Bosnia and Herzegovina based on the Convention on the Prevention and Punishment of the Crime of Genocide. We hope to decide this case also before 6 February 2003, when the new composition of the Court will take effect, pursuant to the vote on 21 October last.

Despite these efforts, the Court's docket remains over-burdened. Several cases will become ready for hearing in 2003, and we will have to continue our search for ways to avoid excessive delays in the consideration of those cases.

In recent years the Court has carried out a number of reviews of its procedures with a view to expediting the treatment of cases, and I believe that it would be helpful to summarize the current situation in this regard.

First, the Court has sought to reduce the length of written and oral proceedings. To this end, it has amended articles 79 and 80 of the Rules in order to speed up consideration of preliminary objections and to clarify the conditions for dealing with counter-claims. The Court has decided to apply more strictly article 45 of the Rules, whereby a single exchange of written proceedings must be regarded as the norm in cases initiated by application. Finally, it considers it necessary to limit the length of oral presentations in accordance with article 60 of the Rules, in particular with regard to the second round of pleadings.

The Court has also circulated to parties a certain number of Practice Directions, again aimed at reducing the quantity and length of written pleadings and the duration of hearings. It, therefore, now asks parties that submit a case by special agreement to avoid the simultaneous filing of pleadings, which often unduly prolongs the proceedings and results in unnecessary proliferation of documents. It asks them to be rigorously selective in the documents that they append to their pleadings and to provide the Court with any available translations of pleadings and annexes. The Court further considers that, where preliminary objections have been raised by a party under article 79 of the Rules, the other party should generally be able to file its observations on those objections within a maximum period of four months. Finally, the Court asks the parties, save in exceptional cases, to refrain from presenting new documents after the close of written proceedings.

The Court has also decided, by way of experiment, to simplify its own deliberations. It has decided that when it has to address two cases, both of which raise questions of jurisdiction or admissibility, it will be able to hear them in immediate succession and then to consider them concurrently. It has reviewed its prior practice whereby, at the close of oral proceedings, each judge prepares a written note on the case, which is then circulated to the other members of the Court. Henceforth, in incidental proceedings or straightforward cases, the Court will deliberate without written notes. It has also agreed that in other cases notes will be as concise as possible.

If these new procedural measures are to yield results, the price to be paid is harder work for both the judges and the Registry. That is what we have been doing and will continue to do. This year, for example, the Court decided to continue working until the end of July, to confine its judicial vacation to the month of August and to begin its deliberations again on 3 September.

The increase in the work rate was based on the assumption that the Court and its Registry would be accorded additional resources. In this regard I would like to thank the Assembly for responding to my urgent appeal from this very rostrum last year. The Court's budget for the biennium 2002-2003 was increased to $11.436 million per year. That increase was not as great as might have been hoped, as a result in particular of the across-the-board cuts in funding for all programmes imposed on all United Nations bodies. It has, however, enabled us to increase our staff to 91 — 77 posts being permanent — and to recruit additional translators, lawyers and administrative staff. At the same time, the Court has been making efforts to upgrade its information technology network and has continued to develop its Internet site.

Those various measures have already borne fruit in the form of new cases. The *LaGrand* case between Germany and the United States was thus brought to judgement in 26 months, and the *Yerodia* case between the Democratic Republic of the Congo and Belgium took 16 months. The Court was able to rule on the admissibility of Uganda's counter-claims against the Democratic Republic of the Congo within seven months. It also ruled within seven months on the intervention sought by the Philippines in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan*. Requests for provisional measures have been dealt with in periods ranging from 24 hours to a few weeks.

We are continuing those efforts, while also ensuring that the quality of our work is maintained, and we hope that the budgetary authorities will, for their part, continue to make their contribution in that respect. The Court today plays an important role in the prevention and resolution of international disputes. Peace between nations cannot be ensured by the work of the Court alone, but the Court can make a substantial contribution in this regard, and we welcome the fact that an increasing number of States are bringing their disputes to us.

This growth in international litigation, however, poses a number of problems. I discussed such problems with the Assembly last year, pointing out the risks that the proliferation of international courts might pose to the unity of international law. I suggested solutions to those problems. They are just as relevant today, but I will not repeat my comments this year.

I would, however, once again like to raise the question of the special Trust Fund set up by the Secretary-General in 1989 to provide assistance to States unable to afford the total cost of proceedings before the Court.

Justice must be accessible to all. In every legal system there are arrangements — some more satisfactory than others — enabling the poorest citizens to institute legal proceedings or to defend themselves against proceedings. The same ought to apply to the International Court.

It is true that access to the Court is free. However, submitting a dispute to the Court still incurs certain costs: fees for agents, counsel, advocates and experts, as well as for the preparation and reproduction of pleadings, annexes and geographical maps; expenses connected with oral hearings and, in certain cases, those arising from the implementation of a Judgment — for example for the demarcation of a boundary fixed by the Court.

Since its creation, the Secretary-General's Trust Fund to assist the poorest States to meet such expenditures has undoubtedly played a useful role, but that role has remained a limited one. The Court has, therefore, asked me to pass on to the Assembly its concerns in this regard.

Those concerns are threefold. In the first place, the Fund's statute permits its use only in cases submitted by special agreement. That is more restrictive than in the case of the funds set up, following the United Nations example, for proceedings before the International Tribunal for the Law of the Sea or the Permanent Court of Arbitration. It would seem desirable that our Fund also intervene in any type of case, provided that there was no dispute over jurisdiction or the admissibility of applications or once any such objections had been dismissed. Similarly, the category of expenses that qualify for financing out of the Fund should be enlarged, with a view to bringing the text concerning the Court into line with other applicable texts.

However, it is surprising that only four States have approached the Fund since its creation, and one of those decided not to draw on the promised sums because of the complexity of the procedures involved. It has seemed to the Court that those procedures could be simplified, and the Secretary-General has kindly undertaken measures to that effect. The question also arises whether, under certain circumstances, States should not be allowed to obtain advances.

Finally, the Fund must have available sufficient resources to act. In that regard, I cannot thank enough those States that have contributed, even recently, to the Fund's financing. But I note that such contributions have significantly diminished over the years, both in number and in amount, and I appeal once again to the States that are able to do so to increase the resources available to the Fund.

The Court is not responsible for the management of the Fund. Nevertheless, it welcomes the improvements already made in the Fund's operations and hopes that, in the future, the Fund will be able to carry out its mission in full.

The international community needs judges, and the States that constitute it have become increasingly aware of its need. The International Court of Justice welcomes that fact, and I can assure the General Assembly that the Court will continue its efforts to respond to the hopes that have been placed in it. The Court thanks the Assembly for its assistance and counts on its continued support in the coming years, in the interests of justice, peace and law.

Mr. Stagno (Costa Rica) (*spoke in Spanish*): At the outset, I should like to thank the International Court of Justice for its report and Judge Guillaume for presenting it to us. I should also like to congratulate Judges Shi and Koroma on their well-deserved re-election, as well as Ambassadors Tomka and Owada and Professor Simma on their recent election to that lofty judicial organ.

The peaceful settlement of disputes is one of the fundamental pillars of the United Nations. Undoubtedly, the existence of legitimate mechanisms and procedures to settle legal disputes is a precondition for the harmonious development of international relations. On the one hand, differing interpretations of the law or of the facts may, once politicized, become threats to international peace or security. Territorial controversies, in particular, may lead to a military escalation. In that context, the International Court of Justice provides a civilized alternative to the use of force and plays a fundamental role in the society of nations. That is why we appreciate the Court's role in the promotion of peaceful relations among States.

On the other hand, the existence of legal controversies creates an environment that hardly favours international cooperation. The lack of clear norms and the existence of uncertainty regarding rights and obligations create an environment that does not encourage joint development and mutual assistance. In that context, the Court's judicial activity guarantees legal certainty, clarifies the basic norms of international law and ensures the rule of law at the international level. Thus, we note the Court's work in the progressive development of contemporary international law. Its decisions, both in contentious cases and in advisory opinions, not only determine the law for the parties in conflict but also enlighten other States with regard to obscure or controversial areas of the law.

Regrettably, the Court's constructive work is hindered by the growing number of States that have placed reservations or conditions on their declarations of acceptance of the Court's compulsory jurisdiction. It is scandalous to observe that only 63 States have made declarations accepting its jurisdiction, in conformity with Article 36 of its Statute. It is even more regrettable to note that only a dozen nations have accepted that jurisdiction without reservations or conditions.

Costa Rica deems it essential that all States accept, without any limitation or restriction, the Court's competence to consider contentious cases. Disregarding the authority of the highest judicial organ of the society of nations amounts to closing the door to justice and jeopardizes the integrity of the international legal order. This responsibility belongs to all nations, but in particular to those that have an additional responsibility as permanent members of the Security Council.

My delegation welcomes the increase in the number of contentious cases on the Court's agenda. That positive fact reveals the international community's growing confidence in that judicial organ's work and States' willingness to submit to legal principles in the conduct of their international relations. That is why we believe that incentives should be provided for the introduction of new cases to the Court and for frequent recourse to it.

However, we note that the growing number of cases entails an increase in the institution's workload. We believe it necessary that the Court continue to consider how to streamline its practices and working methods to prevent delays in its consideration of cases. At the same time, we believe it essential to provide the Court with sufficient resources and staff so that it can adequately meet the new obligations arising from the increased caseload. We trust that the Court will present a request for additional resources in the next budgetary cycle.

In addition, I should like to emphasize the excellent informational work accomplished by the Court through the Internet. That service is invaluable for developing nations, which sometimes encounter difficulties in gaining access to the most recent decisions. We trust that the Court will soon put the complete texts of all its previous decisions on its web page.

Finally, I should like to reaffirm Costa Rica's full confidence in and firm support for the excellent work of the International Court of Justice.

Mr. Cabrera (Peru) (*spoke in Spanish*): My delegation would like to thank the President of the International Court of Justice, Judge Gilbert Guillaume, for his clear presentation of the Court's work during the period 1 August 2001 to 31 July 2002.

As in other years, my country has taken the floor on this topic because we are convinced of the value of peace, law and the preservation of harmonious relations between States. The work of the Court during its 57 years of existence as the principal judicial organ of the United Nations testifies to its crucial role in that respect.

In this regard, we are pleased to note the increase in the Court's caseload over the past few years. I believe it is significant that, as noted in the report, as of 31 July there were 24 cases on the Court's docket, whereas as in the 1970s it had only one or two cases on its docket at any one time. However, this increase will require the Court to meet the challenge of responding quickly and soundly to the increasingly complex cases brought before it.

That challenge has been successfully met by the Court, particularly since 1997, when it was decided to make greater use of new technologies in its work. This improved its working methods and achieved a greater degree of collaboration among the various parties. In its efforts to work more efficiently and rapidly, in December 2000 the Court also modified its regulations concerning preliminary objections and counter-claims. It is still working on that reform.

In the context of this improvement of the Court's procedural requirements, my country, which has had recourse to the Court in one instance, welcomes the recent adoption of nine Practice Directions Additional to the Rules of the Court. The Directions, to enter into effect this month, seek not only to make the work of the Court faster and more efficient, but also to improve certain ethical standards in the application of law in specific cases before it. In this regard, we note Practice Direction VII, which indicates that parties

> "should refrain from nominating persons who are acting as agent, counsel or advocate in another case before the Court or have acted in that capacity in the three years preceding the date of the nomination". (*A/57/4, p. 99*)

Similarly, Practice Direction VIII discourages the participation of any member of the Court as agent, counsel or advocate in a case before the Court. We believe that these innovations will help to strengthen the authority of the Court as the world's principal legal body.

In the context of providing the Court with better tools for the administration of justice, my delegation was pleased to note that the General Assembly, in December 2001, approved an increase in the Court's budget for 2002-2003 by over $3.5 million, as well as a sorely needed increase in personnel. These logistic improvements will enhance our expectations of the Court's work and hence increase its responsibility.

With respect to accessibility of funds for the Court, my delegation would remind everyone of the existence of the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established in 1989 to assist States that cannot meet the costs of bringing a claim before the Court. It is of crucial importance that donor countries redouble their efforts in capitalizing the Fund. The cost of peace can never be compared to the incalculable costs of war.

With regard to jurisprudence, my country is very pleased by the Judgments handed down in the period covered by the report. Particularly noteworthy was the Judgment of 14 February in a case between the Democratic Republic of the Congo and Belgium concerning the issuance of an international arrest warrant by the Belgian legal authorities against the then Minister for Foreign Affairs of the Democratic Republic of the Congo. In its Judgment, the Court found that no exception existed with regard to the rule that establishes immunity from criminal prosecution before foreign courts and inviolability for sitting ministers for foreign affairs, even when they are accused of having committed war crimes or crimes against humanity.

My delegation, while expressing its respect for the institution of immunity for certain Government representatives, draws attention to the very thin line that exists between the due exercise of immunities and privileges and the impunity which their evocation in bad faith can occasion. The Court recognizes this situation by referring in its Judgment to the fact that

"the immunities enjoyed did not imply impunity" (*ibid., p. 4*).

My country, which has been fighting a very determined battle against impunity, is currently undertaking the necessary measures to ensure that a former head of State, having fled to an Asian country to escape justice, can be extradited to Peru in order to answer to the very serious charges of which he is accused. We would hope that the sound evidence, concurrent testimonies and material proof that we have submitted to Peruvian courts will convince those who are protecting him of the existence of serious and objective substantiation that he must be subject to justice, in full respect for the due process of law.

Despite the achievements at the International Court of Justice to which we have referred, Peru feels it important to note that, unfortunately, the situations that currently constitute the greatest threats to international peace and security are not within its jurisdiction and are being dealt with through different channels of action that may not be favourable to peace. There is also another type of conflict, internal conflict, which by its very nature does not fall under the Court's jurisdiction, but which may pose very serious threats to international peace and security. The international community must find a way to endow the system of international law with the necessary tools to encompass such cases, which are not currently under the Court's competence but are threats to international peace.

Peru, a country that throughout its history has demonstrated strict respect for international law in its relations and has always sought to solve all its disputes peacefully, will continue to spare no effort to ensure that the International Court of Justice may continue to work for the sake of peace, the rule of law and harmonious relations between nations.

Mr. Belinga-Eboutou (Cameroon) (*spoke in French*): At the outset, allow me to congratulate the President of the International Court of Justice, Judge Gilbert Guillaume, on the excellence of the Court's report covering the period from 1 August 2001 to 31 July 2002, which he introduced to us with an eloquence and a precision worthy of a judge.

I also take this opportunity to pay a warm tribute to all the high-level judges who strive every day with devotion, rigour and self-sacrifice for the peaceful settlement of disputes and the development of international law so that lasting peace may reign among nations.

A few days ago, the General Assembly partially renewed the membership of the International Court of Justice. On behalf of Cameroon, it is my pleasure to extend to Judges Shi Jiuyong and Abdul Koroma the congratulations of my Government on their re-election. We also congratulate the three new Judges: Hisashi Owada, Peter Tomka and Bruno Simma.

On the occasion of the election of new members of the Court, Cameroon finds it difficult to resist the temptation to remind members of the Assembly of what we stated concerning the principal judicial organ of the United Nations three years ago, almost to the day. On 26 October 1999, Cameroon said,

> "The Court can be proud of the authority it has conferred upon the process of judicial settlement, which was so long relegated to the margins. The Court can be proud, in the words of President Bedjaoui, of having secularized international justice and made it a landmark of our century. Proof of this is the Court's participation — of course, at the request of States — in the management of the great concerns of the world today: security, human rights, the environment and so on." (*A/54/PV.39, p. 9*)

The Judges rule on major issues connected with the sovereignty of States. They do this with pride, of course, but also, and above all, with great seriousness and humility. How could it be otherwise? After all, they know that for human beings to render justice for other human beings is a difficult thing, because it involves nearly metaphysical problems of conscience. "Judges of the Earth, you are gods." This remark by Henri-François d'Aguesseau is more a reflection of a keen sense of responsibility than an expression of admiration. If justice rendered by human beings with regard to other human beings is, indeed, difficult, what are we then to say of justice rendered by human beings with regard to States? This is just as difficult and as intimidating, in the light of the important interests that are increasingly at stake.

The report on the activities of the Court before the General Assembly (A/57/4) is particularly significant in this regard. The report is rich and dense, and it contains very useful information. With the Assembly's permission, I would like to focus on two aspects of this important document. I would like to

offer an analysis of its content and then to make some observations on the judicial activities of the Court.

Since its creation in 1946, the Court has made a major contribution to the implementation of the purposes and principles of the United Nations Charter in the matter of international peace and security and the development and strengthening of friendly relations among States. Over the years, the increasing recourse by States to judicial settlement of their disputes has given the International Court of Justice a central place in the administration of international justice and the peaceful settlement of international disputes. To date, 191 States have become parties to the Court's Statute. The optional clause relating to the binding jurisdiction of the Court has been accepted by 63 States. The Court now has 23 cases on its docket. These cases, as the President of the Court reminded us a moment ago, cover four continents and the most diverse domains. Furthermore, 260 bilateral or multilateral conventions have given the Court competence to deal with disputes arising from their application or interpretation. This shows the decisive role that the world's highest court today plays in dealing with relations among States and the attainment of the relevant objectives enshrined in the Charter.

My country welcomes all the measures taken by the Court to improve its work and make it more effective. We still have to give it adequate resources to enable it to continue to fulfil it mandate — and to do so more expeditiously.

Two judgments and 15 orders have been laid down by the International Court of Justice over the last year. Some people of course, will be prompted to underestimate this record, but when we realize the complexity, the delicacy and the sensitivity — in short, the difficulty — arising from the stakes involved in the cases brought by States to the Court, my delegation can only commend the results.

The annual report of the International Court of Justice tells us that it has 24 cases on its dossier. Members will have noted that I earlier spoke of 23 cases. In so doing, I was only following Judge Guillaume, who, in his statement today, dwelt for a few moments on the case of the land and maritime border between the Republic of Cameroon and the Federal Republic of Nigeria. In handing down its Judgment in this case on 10 October, the International Court of Justice, which is a jurisdiction and which pronounced the law — *juris dictio* — put an end to more than eight years of expensive proceedings.

Speaking on 11 October 2002 about this Judgment, which is the indisputable expression of the existing law, the President of the Republic of Cameroon, His Excellency Mr. Paul Biya, clearly indicated that

> "This Judgment is final and cannot be appealed. Cameroon takes note of this. As a State bound by the rule of law, Cameroon undertakes to comply with it, as laid down in the Charter of the United Nations. Cameroon is convinced that it is through the parties' respect for and application of the decision of the Court that the border dispute between the two countries will finally be peacefully resolved for the greatest good of our two fraternal peoples."

The voluntary and rapid implementation of the Court's rulings is an important indication of its acceptance — an act of faith — which makes recourse to the Court something that is important and makes good sense. Otherwise, what would be the point of accepting the Court's compulsory jurisdiction, of bringing cases before it or appearing before it? What would be the point, if its verdicts were not accepted?

Article 2, paragraph 2, of the Charter states:

> "All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter."

Article 94, paragraph 1, of the Charter states:

> "Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party."

Those two Charter Articles leave nothing further to be stated.

Cameroon welcomes the commitment of the Federal Republic of Nigeria, expressed before the judgment was handed down, to respect the Court's verdict. The international community rightly welcomes the proactive approach of Presidents Paul Biya of Cameroon and Obasanjo of Nigeria, who went beyond agreeing to accept the judgment and on 5 September 2002 at the initiative of and in the presence of the

Secretary-General, His Excellency Mr. Kofi Annan, outlined confidence-building measures and decided, with the support of the Organization of African Unity, to create an implementation mechanism for the judgment of the Court. In that spirit, on 30 September 2002 and for the first time in nearly a decade, Cameroon and Nigeria held a session of the Joint Commission in Abuja, 10 days before the Court handed down its verdict.

My country remains convinced of the determination of the Governments of the two countries to work together to implement the Judgment rapidly and completely in a spirit of African fraternity and in the enlightened interest of their two peoples. Cameroon and Nigeria have had here an opportunity to confirm before the whole international community their dedication to peace and the rule of law. For its part, Cameroon, a State based on the rule of law, reaffirms solemnly before the Assembly its commitment to comply with the Court's verdict and to promote its immediate implementation.

I cannot conclude this statement without paying warm tribute, on behalf of the President of the Republic of Cameroon, His Excellency Paul Biya, to the whole Court for its impartiality in the conduct of its proceedings. Cameroon also wishes to express its wholehearted appreciation to the Secretary-General, His Excellency Mr. Kofi Annan, for his past and future initiatives and his commitment to maintaining the fraternal, friendly, good neighbourly and cooperative relations that tie Nigeria and Cameroon. We must not forget all the other members of the international community that have made positive contributions to the settlement of this dispute, and that, we are certain, will continue to help the two neighbouring countries bring about the rapid and full implementation of the Court's verdict, thus putting an end to this dispute.

Mr. Cheah Sam Kip (Malaysia): My delegation wishes to thank the Honourable Judge Gilbert Guillaume, President of the International Court of Justice, for his lucid presentation of the report of the Court, contained in document A/57/4. The President's oral presentation this morning has been most illuminating and has given us food for thought. A comprehensive report is extremely useful in enabling Member States to understand and appreciate the complexity of the work of the Court. My delegation would also like to extend its felicitations to the recently elected judges of the Court.

We would like to compliment the Court on its contribution to the peaceful settlement of international disputes. As the principal judicial organ of the United Nations, the Court has undoubtedly played an important and influential role in the promotion of peace and harmony between nations and peoples of the world through the rule of law. We are pleased to note that, as of 18 September 2002, the Court has delivered 74 judgments since 1946, when it replaced the Permanent Court of International Justice. Those judgments cover a wide range of disputes concerning, inter alia, land frontiers and maritime boundaries, territorial sovereignty, the non-use of force, non-interference in the internal affairs of States, diplomatic relations, the right to asylum, nationality, guardianship, rights of passage and economic rights.

It has also given 24 advisory opinions, concerning, inter alia, admission to United Nations membership, reparation for injuries suffered in the service of the United Nations, the territorial status of South-West Africa (Namibia) and Western Sahara, judgments rendered by international administrative tribunals, expenses of certain United Nations operations, the applicability of the United Nations Headquarters Agreement, the status of human rights rapporteurs and the legality of the threat or use of nuclear weapons.

Indeed, more and more States are referring their disputes to the Court for final settlement. That increase in cases before the Court reflects the recognition of the wisdom and fairness of that body, as evidenced by the excellent quality of the judgments and opinions it has handed down and their acceptance by the parties concerned.

Malaysia's confidence in the International Court of Justice strengthens its belief that the Court is the most suitable forum for seeking a peaceful and final solution to disputes when all diplomatic efforts have been exhausted. Therefore, Malaysia, in mutual agreement with Indonesia, decided to submit the territorial dispute between them over Pulau Ligitan and Pulau Sipadan, for adjudication by the Court. We look forward to the Court's judgment and, consistent with our abiding respect for international law, will fully respect it.

My delegation believes that the significant increase in the number of cases on the docket of the Court to 24 augurs well for the progressive

development of international law and the role of the Court as a dispute settlement mechanism. We welcome the acceptance by 63 States of the Court's compulsory jurisdiction, in accordance with article 36, paragraph 2, of the Statute. We also note with interest that some 260 bilateral or multilateral treaties have granted the Court jurisdiction in the resolution of disputes arising out of the application or the interpretation of the treaties concerned. Those welcome developments clearly demonstrate the increasing confidence in the decisions of the Court and reliance on the settlement of disputes through adjudication rather than through the use of force. This manifestation of confidence in the rule of law is particularly important at this point in time.

In view of the increase in the workload of the Court, my delegation believes that there is an urgent need to strengthen the Court's capacity to efficiently dispose of the cases before it and to undertake the additional administrative responsibilities arising therefrom. In that respect, we welcome the improvements with regard to personnel requirements. However, we hope that the difficulties caused by the reduction of budget credits for programme support can be overcome.

My delegation commends the Court for its efforts to increase public awareness and understanding of its work in the judicial settlement of international disputes, its advisory functions, case law and working methods, as well as its role within the United Nations, through its publications and lectures by the President, other members of the Court, the Registrar and members of the Registry staff.

We welcome the Court's distribution of press releases, its background notes and its handbook, which keep the public informed about its work, functions and jurisdiction. In that regard, we congratulate the Court on its extremely useful web site. We believe it is well utilized by lawyers, students, academics, diplomats and interested members of the public as an important point of access to the Court's judgments, which constitute the most recent developments in international case law.

Mr. Lobatch (Russian Federation) (*spoke in Russian*): Permit me first to thank Judge Guillaume for introducing the thorough report of the International Court of Justice (ICJ). The Russian Federation has traditionally attached great importance to the work of the Court, which is a unique international organ with general jurisdiction. That accounts for its key role within the system of international relations, as an instrument for the peaceful settlement of disputes between States.

The past decade has undoubtedly been marked by a rising interest on the part of States in the Court, as clearly demonstrated by the increase in the number of cases on the Court's docket, and by the increase in the scope and geographical range of applications to the Court.

It would be difficult to exaggerate the Court's contribution to the progressive development of international law. Of particular interest in that context is the Judgment of 14 February 2002 in the case between the Democratic Republic of the Congo and Belgium, with regard to the issuing by the Belgian law enforcement agencies of a warrant for the arrest of the former Foreign Minister of the Democratic Republic of the Congo. Another important issue from the standpoint of international law was the Court's ruling in a matter pertaining to the maintenance of international peace and security, namely the case between the Democratic Republic of the Congo and Rwanda.

We particularly hail the Court's Advisory Opinions on various issues of interpretation of international law. We believe that, with the passage of time, the role of the Court's Advisory Opinions will grow. In the light of the substantial growth in recent years in the number of other international courts and tribunals, we think it entirely proper to consider the possibility that those other institutions could in future apply to the ICJ for Advisory Opinions. That might prevent judicial contradictions, which, if they arose, might in certain circumstances considerably impede the progressive development of international law.

Here, of course, we are not speaking of the establishment of any particular hierarchy of the organs of international justice. We commend the Court for its efforts in recent years to rationalize and simplify its working procedures. We believe this should lead to a sizeable decrease in the amount of time needed to deal with its cases. But in this area, not all problems have yet been resolved. We look forward to further plans to increase the productivity of the Court. The Court's completion of its important work depends on adequate financing; there is long overdue need for increasing its budget. We support such proposals and call on all other States to do so too. It is a pleasure to note that in recent

years the alarming situation with regard to inadequate financing has begun to improve. It is our belief that efforts to increase the budget should be continued.

At the same time, let me encourage the process of increasing the staff of the Court and strengthening its technical resources. Without this, any improvement in its work would be unthinkable. The process deserves our support. We believe that the General Assembly should reaffirm readiness to continue assisting the Court in solving its current problems.

The noticeably increasing trend over the past few years for States to willing apply to the Court for the settlement of disputes between them testifies to the greater confidence of States in the ability of the Court to find effective and just solutions to disputes, and in the Court's authority to ensure the implementation of its verdicts.

More and more often, States are recognizing the Court as a guarantor of compliance with the Charter and other fundamental rules of international law.

Mr. Shinoda (Japan): It is my great pleasure and honour, on behalf of the Government of Japan, to address the Assembly under the presidency of His Excellency Mr. Jan Kavan. My delegation would like to thank Judge Gilbert Guillaume for his report describing the current situation of the International Court of Justice (ICJ). I am especially pleased to have this opportunity to congratulate those who were elected to the Court last week. We hope that, with these newly elected judges, the Court will continue to effectively tackle the difficult cases brought to its jurisdiction. My delegation would also like to express its appreciation for the dedication and valuable contributions of those judges who will leave the Court in February 2003.

My delegation greatly appreciates the excellent report of the ICJ (A/57/4), and the detailed explanation of the current situation of the Court by its President, Judge Guillaume. There is no doubt that the Court, with its rich history, broad material jurisdiction and highly refined jurisprudence, and as the principal judicial organ of the United Nations, has firmly established its status as the world's senior international court.

Mr. Mamba (Swaziland), Vice-President, took the Chair.

The goal of establishing and maintaining the primacy of integrated international law is of unquestioned importance. In the current situation, as we observe the armed conflicts and acts of terrorism that continue to erupt, the role of the International Court of Justice as a credible mechanism for promoting international peace and security is more important than ever before. As stressed in the resolution on the prevention of armed conflict, which was adopted at the fifty-seventh session of the General Assembly, it is important to resort more frequently to the International Court of Justice.

My delegation believes that fostering peace through the adjudicated settlement of international disputes and the development of the body of international law has become an irrefutable universal value today. Japan is a country resolutely devoted to peace and firmly dedicated to respect for international law. Its commitment to the principle of peaceful settlement of disputes is demonstrated through its acceptance of the Court's compulsory jurisdiction by its deposit of a declaration to that effect in accordance with paragraph 2 of Article 36 of the Statute of the Court.

In that regard, it is also worth recalling operative paragraph 9 of the draft resolution on the prevention and peaceful settlement of disputes, which was agreed by the Working Group of the Special Committee of the Charter of the United Nations. That draft resolution reminds States to declare their recognition of the compulsory jurisdiction of the International Court of Justice. Sixty-three States have so far done so, and we hope that many more States will join them.

Japan is pleased to note that, despite the increase in the number and diversity of cases, the Court has been able to process them without excessive delays, thanks to the increased budget approved by the General Assembly, as well as to the various measures the Court has taken to rationalize its work.

As of 31 July 2002, 24 cases were pending before the Court. We appreciate the increased confidence which States have shown in the Court's ability to resolve their disputes and hope that the Court will continue to carry out its judicial tasks during the 2002-2003 session. Japan strongly believes that the Court is making a genuine contribution to strengthening the rule of law and to preventing and resolving international crises.

Japan is also acting according to its principles by providing competent personnel to the Court. Indeed,

Japan's distinguished lawyers have a long history of contributing to the World Court's jurisprudence. In the elections held last week, Ambassador Hisashi Owada was elected as Judge of the Court. Ambassador Owada has excellent knowledge of international law and broad experience as a diplomat. We are confident that he will provide invaluable insights into the area of international justice.

In concluding my remarks, I wish to reaffirm, on behalf of my delegation, the great importance which the Government of Japan attaches to the lofty cause and work of the International Court of Justice as the principal judicial organ of the United Nations.

Mr. Robledo (Mexico) (*Spoke in Spanish*): My delegation expresses its gratitude to the President of the International Court of Justice, Judge Gilbert Guillaume, for the very detailed report he has presented, and we pay tribute to the principal judicial organ of the United Nations for its contribution to the peaceful solution of disputes between States and the development of international law. The confidence shown by the international community towards the Court's judicial practice is evident. The Court's workload is indicative of the degree of political and legal support that States give to the Court as an impartial and independent legal entity.

Through its constant growth and development, the Court has not ignored the needs its own success has imposed on it. The streamlining of its procedures and the improvement of its working methods have been basic ingredients in the strategic planning of its functioning in order to be able to respond to the demands and needs of international life in the new century. Mexico recognizes the Court's efforts in those areas and encourages the parties to disputes to cooperate fully with the Court by following its directives. In the final analysis, the full cooperation of the parties concerned is the best way to reduce the time devoted to each case.

With respect to the legal practice of the Court in the last year, my delegation attaches special importance to its ruling on the case concerning the Arrest Warrant of 11 April 2000 involving the Democratic Republic of the Congo and Belgium, as well as to the case concerning the land and maritime borders between Cameroon and Nigeria.

The case involving the Democratic Republic of the Congo and Belgium has undoubted relevance for contemporary international law, in particular through its attempt to clarify the interaction between two legal institutions: the immunity of foreign ministers and individual criminal responsibility for crimes of international magnitude. We appreciate that the Court fully considered the need to preserve the institution of diplomatic immunity by virtue of the role it plays in the stability of the international community. We recognize that striking a balance between that immunity and new trends in international criminal law is no easy task. We will therefore have to await another opportunity to find the definitive solution to the issue of immunity in general as it relates to the commission of crimes of importance to the international community.

Although we are aware that neither of the parties in the case is requesting the Court to deliver a ruling on the issue of universal jurisdiction, the international community will have to await another time to receive a legal ruling on both the legal regime and material content of the general issue.

We welcome the Court's recent ruling on 10 October in the case involving Cameroon and Nigeria. We are aware of the complexity of the technical and historical information with which the Court had to become familiar in order to deliver a ruling. We believe that the ruling is of great importance for peaceful relations between States in West Africa by delimiting borders in the areas around Lake Chad, the Bakassi Peninsula, the land border between Lake Chad and the Peninsula and the maritime border between the two countries. We note with approval that the Court is continuing to refine its extensive jurisprudence in the area of delimiting maritime borders, in particular when required to delimit the continental shelf and exclusive economic zones by means of a single line, as in the case being discussed. Without doubt, that accumulated experience is fundamental in order for the Court to rule on cases involving maritime borders in the Caribbean Sea. Mexico will very carefully follow those developments by virtue of which it has been providing the necessary resources to facilitate access to technical assistance with a view to entering bilateral negotiations on delimiting maritime borders or requesting a legal ruling.

In that regard, Mexico notes with approval the remarks by the President of the Court on the operations of the Secretary-General's Trust Fund and fully agrees with the observations of the President of the Court with

respect to the means to be implemented to ensure greater accessibility for the States so desiring. We also note with satisfaction the remarks of the President of the Court concerning the functioning of the Secretary-General's Trust Fund and we fully agree with the opinion of the President with the respect to means for improving accessibility to the Fund by States who need it.

Additionally, and my delegation notes with satisfaction the decision of the Court to allow Equatorial Guinea to intervene during the Cameroon and Nigerian dispute which enriches the jurisprudence of the Court and which takes place under Article 62 of its Statute. Though Equatorial Guinea did not participate as a party, its presence did facilitate the work of the Court by including its viewpoints in establishing that maritime border between the aforementioned States.

The intense work of the Court in the last two years and its crucial role in the peaceful settlement of disputes demands that members of the international community continue to support it. The Court will continue to play an important role in the international legal sphere, to which we have added new institutions, all of which work for the benefit of the international community. Mexico continues to provide its support to all of the machinery which promotes a peaceful settlement of disputes between States.

Mr. Tan Ken Hwee (Singapore) (*spoke in English*): Let me begin by congratulating the International Court of Justice (ICJ) on a full and productive year. We can only marvel at how the Court has managed to do so much, with the limited resources allocated to it, a matter which I shall return to later.

Singapore would like to congratulate the re-elected and newly elected members of the Court, Judges Shi Jiuyong (China), Abdul G. Koroma (Sierra Leone), Hisashi Owada (Japan), Bruno Simma (Germany) and Peter Tomka (Slovakia). Singapore is certain that these judges will, in accordance with the will of the international community, expressed through the voting in this Assembly and at the Security Council, serve with distinction, skill and wisdom.

Singapore also offers thanks for the services of Judges Shigeru Oda (Japan), Géza Herczegh (Hungary) and Carl-August Fleischhauer (Germany). The international community is indebted to these gentlemen for their faithful and dedicated service to the Court. We hope that each of them will discover, or more appropriately, rediscover, other ways to contribute to the development of international law.

Singapore firmly believes that there must be credible and reliable institutions, empowered to adjudicate disputes between States. While certain cultures may avoid litigation, preferring less confrontational dispute resolution methodologies, or negotiated settlements, there are, unfortunately, situations which cannot be resolved except through a formal adjudication process. In such situations, the ICJ plays a crucial role. The ICJ provides an efficient mechanism for the adjudication of international disputes, and States are increasingly willing to avail themselves of the Court for this purpose. In addition, the Court also plays an important role in enunciating principles of international law, for the guidance of all countries. This can help to prevent disputes in the first place.

Therefore, like others, we have noted with concern the creation of numerous specialized courts and tribunals. There is a risk that this would lead to fragmentation of international law, and we note that the International Law Commission will deal with this complex subject.

On our part, we would like to state that while there is no formal hierarchy of courts in international law, it is clear to us that the International Court of Justice is first among equals. Many treaties may establish separate judicial or decision-making bodies. However, the ICJ remains the principal judicial organ of the United Nations. The Court has discharged its growing responsibilities in this regard with ever-increasing professionalism and expertise.

We would have preferred to have had more time to study the report of the Court, and note with some regret that the report, although dated 6 September 2002, was only made available to Member States yesterday, 28 October 2002. This has severely limited our opportunity to study and to reflect upon the contents of what is a comprehensive report. We are therefore only able to make general statements about the work of the Court.

We note that in the period under review, the Court has had to deal with a request for it to indicate provisional measures, and a request for permission to intervene. The Court conducted public hearings in respect of four cases, handed down rulings in respect of

four cases, and dealt with numerous procedural matters in respect of other pending cases.

What is clear to us all is that the Court has become rather busy. The number of cases on its docket seems to be growing all the time. In fact, in the period under review, the Court was seized with three more cases. It is therefore gratifying to Singapore, and to the international community as a whole, to note that the Court seems to be coping with the situation.

In addition to conducting public hearings, deliberating on cases, and handling and managing procedural matters, the Court has found time to adopt Practice Directions and has taken other measures to improve its working methods and to accelerate its procedures.

Singapore notes these efforts with satisfaction. They will no doubt help to streamline the overall litigation process that parties to a dispute have to navigate through. These efforts resonate well with Singapore. Domestically, our courts have also imposed case management disciplines and strategies to ensure that cases are disposed of efficiently.

Singapore also acknowledges, as others before us, and is thankful for the excellent efforts of the Registry of the ICJ in maintaining a comprehensive web site, which is constantly updated with the latest status of any case on the Court's docket. The diligence with which the site is updated makes it an essential tool for any country wishing to keep updated on the work of the Court. The automated e-mail newsletters from the Court further complement the web site. In all, the arsenal of technological tools deployed by the Court is impressive and reflects and enhances the importance and influence of the Court.

We have always been concerned about the level of funding available to the ICJ. It seems as if the Court is left with the unenviable task of doing increasingly more work, with a very modest number of staff, and an even more modest budget.

We hope that other Member States will share this concern. The Advisory Committee on Administrative and Budgetary Questions agreed to an increase in the approved headcount and budget of the Court for the current biennium. However, there were cuts in the Court's programme support budget. This is akin to giving with one hand, and taking with the other. It bears repeating that the ICJ has a budget about one tenth that of the International Tribunals for the former Yugoslavia and for Rwanda. While Singapore does not suggest that those Tribunals are over-funded, we do worry that the ICJ continues to be under-funded, despite the recent increase in budget.

In conclusion, Singapore has always been and will remain to be supportive of the Court. We monitor, and pay the greatest possible attention to each new decision of the Court, either in disputes between parties, or in respect of advisory opinions. While there is no doctrine of *stare decisis* or judicial precedent in international law, we believe that the ICJ sets the tone, and that its judicial pronouncements should be given the greatest possible regard by States and other courts and tribunals.

Mr. Enkhsaikhan (Mongolia): Allow me at the outset to thank Judge Guillaume, President of the International Court of Justice, for the introduction of the report of the Court on its work and thank the Court for its continued good work during the past year.

I would also like to take this opportunity to congratulate newly elected and re-elected members of the Court and wish them success in their noble tasks to strengthen and uphold the rule of law and justice.

The role of the ICJ, which is the only international court of universal character with general jurisdiction, is increasing in the post-cold war era. Today the Court plays an important role in promoting friendly relations among nations, the peaceful settlement of disputes, the prevention of conflicts, the strengthening of the rule of law and the progressive development of international law.

As can be seen in the report, which was updated recently, today 191 States are parties to the Statute, 63 of which have accepted the Court's compulsory jurisdiction, in accordance with article 36, paragraph 2, of the Statute. Furthermore, some 260 bilateral and multilateral treaties provide for the Court's jurisdiction in the resolution of disputes arising out of their application or interpretation. This and other relevant information on the status and activities of the Court can be found in the report, which my delegation finds rich and well structured.

In the period under consideration, the number of cases before the Court has increased further to 24. They cover all continents and are varied, including territorial and boundary disputes, status of nationals

and property of States, cases relating to the maintenance of international peace and security, and others. The large number of cases on the Court's docket reflects the increased confidence of States in the Court, in its judgments and in its impartiality.

In the period under review, the Court issued a number of important judgments, including with regard to the case concerning sovereignty over Pulau Ligitan and Pulau Sipadan, between Indonesia and Malaysia, and the case between the Democratic Republic of Congo and Belgium concerning the issuance of arrest warrants. The latter decision, as the report points out, ended a dispute concerning a question of great importance in international relations. It underlined that immunity does not necessarily imply impunity.

Likewise, the judgment relating to the case of Armed Activities on the Territory of Congo made an important finding: that States remain liable for actions contrary to international law for which they may be responsible and that they are required to respect their international obligations.

My delegation welcomes the further steps taken by the Court to shorten and simplify its proceedings, in particular as regards preliminary objections and counter-claims as well as the adoption of Practice Directions additional to the Rules of the Court, as reflected in paragraphs 368-373 of the report. Thus, as a result of simplification, in some cases it was possible to consider in a single phase both questions of jurisdiction and admissibility, and the merits.

The introduction of amendments to article 79 of its 1978 Rules, dealing with preliminary objections, and Article 80, relating to counter-claims, have made it possible, in certain cases, to shorten the duration of incidental proceedings.

Like previous speakers, my delegation would like to commend the Court for its excellent work. As can be seen in the report, the judicial year 2002-2003 promises to be very busy. In order effectively to discharge its basic functions, the Court, which, according to Article 92 of the Charter, is the principal judicial organ of the United Nations, needs adequate financial resources. Compared to the two ad hoc Tribunals established by the Security Council, whose reports were considered yesterday by the Assembly, the International Court of Justice is seriously underfunded while its docket is overburdened. Insufficient budgetary resources would only hamper the work of the Court in the discharge of its functions, adding to its already huge backlog. My delegation therefore supports a reasonable increase in the Court's budget, bearing in mind the increased number of cases on the docket and the backlog, despite the across-the-board cuts to support programmes imposed on all United Nations bodies.

We take note of the threefold concern expressed by the President of the Court as to this special fund. We are in favour of facilitating access by the poorest countries to the Court through this fund, to enable them to meet the expenses incurred in the course of submitting disputes to the Court. In this respect, my delegation fully supports the statement made by President Guillaume that access to international justice should not be impeded by financial inequality.

In conclusion, my delegation would like to underline the fact that, in line with its policy of supporting the strengthening of the rule of law and the prevention and resolution of disputes by peaceful means, Mongolia expresses its full confidence in the work of the Court and wishes it further success in the discharge of its noble functions, as defined in the United Nations Charter and its Statute.

Mr. Lavalle-Valdés (Guatemala) (*spoke in Spanish*): Allow me at the outset to express our deep appreciation to the President of the Court, Judge Gilbert Guillaume, for having made the effort to come to this busy city, putting aside many of his burdensome regular duties to take on an additional but different one — that of introducing to us, which his usual lucidity and insight, the annual report of the Court. Our recognition and thanks must also be retroactive, because this is third consecutive time that President Guillaume has carried out this task. We would therefore like to thank him, both retroactively and in advance, for his interesting statements before the Sixth Committee and other bodies of the United Nations.

My delegation would like to congratulate the five jurists who have just been elected members of the Court, two for the second time and three for the first. We wish them every success in their work and in the exercise of the functions that they will assume or continue to carry out.

My delegation is pleased to see that, now that Switzerland has joined the Organization, there is no longer any State that belongs to the somewhat strange category of countries that are parties to the Statute of

the Court but not Members of the United Nations. We believe that the elimination — symbolic as it may be -- of this category strengthens the links between the Court and the United Nations, and we hope that this category of States is now part of history, so that in future any State that becomes party to the Statute of the Court will, just as Timor-Leste has done — and we would like to congratulate it for this — simultaneously become both a party to the Statute and a Member of the United Nations.

The famous jurist Hugo Grotius pointed out humorously that because, even though some might deny it, the international community is, in the final analysis, made up of human beings, it cannot exist without the rule of law — an indispensable element for any community. This is also clearly expressed, with a simplicity that contrasts with Grotius' Ciceronian turns of phrase, in the Latin adage — which I believe everyone is familiar with — *ubi societas ibi jus*.

As indicated by the clear relationship between the Latin words *jus* and *judicium* — which mean law and legal action, respectively — while law, in its initial stages, may be exclusively customary, its existence without some kind of legal system would be inconceivable.

That prompts us to touch on a concept that might seem obvious, but it is one that is so multifaceted that we can learn from it. I am talking about the difference between international law and national legal systems. Unlike international law, the latter have at their disposal not only legislators but legal bodies whose jurisdiction individuals are subject to and whose decisions are imposed by officials of the State, which has a monopoly over the use of force at the domestic level. It is thus easy to understand that the man in the street — and even sometimes the legal professional — might feel that international law either does not exist or is just a facade.

It seems that there must be a common set of principles that can be applied to relations between States, and that these must at the very least include the inadmissibility of the arbitrary use of force by States, as well as the need for them to abide by their word. But, given that at present no international law exists, nor can one exist, that, mutatis mutandis, has the attributes of national legal systems that I have just outlined, the man in the street tends towards scepticism as far as the effective existence of international law is concerned, especially given the fact that he usually knows next to nothing about the many agreements that exist between States and that are fairly effective in regulating almost all aspects of international relations.

The existence of a corpus of international law is the result not only of the existence, in the Charter of the United Nations, of fundamental norms of coexistence between States, the customary law that they willingly respect and the agreements to which I also referred, but also of a series of measures and arrangements for overcoming disputes that are a kind of sub-product of international relations. Arbitration and judicial bodies stand out among such mechanisms as a means of resolving legal disputes between States, differing from each other only by virtue of the degree of permanence of their decisions — the judicial bodies generally being superior in this respect.

Of all the international legal bodies in existence, we must, of course, pay tribute to the one that is at the disposal of all States and has general jurisdiction, covering all legal provisions, whether mandatory or voluntary, that govern inter-State relations. It is that body — the doyen of international legal institutions — whose annual report is before us today. That institution, considered not so much as a successor to its venerable predecessor, the Permanent Court of International Justice established in 1922, but as a body that has continued the work of that Court and has enriched the entire corpus of international law. That is because the Court has been working not only to overcome disputes between States, but also to hand down decisions, initially at the request of the League of Nations and, later, of the United Nations and other international universal institutions, on legal, abstract or concrete questions.

We are aware of the great increase in activity in every aspect of the Court's work over the past 12 years, a fact that that remains the most notable characteristic of the institution. But its work is no less useful and praiseworthy. In addition to contributing to peace and harmony between States, its actions have led increasingly to a reinforcement of the legal basis of mutual relations and helped to bolster international cooperation. That is why we should spare no efforts to ensure that the Court, whose activities are very positive from the perspective of a cost-benefit analysis, has the necessary resources to achieve its full potential and, thanks to its outstanding work, continues to enjoy the confidence of all States.

Mr. Shin Kak-soo (Republic of Korea): Allow me at the outset, on behalf of our delegation, to express our appreciation to Judge Gilbert Guillaume, President of the International Court of Justice, for his introductory statement on the report of the International Court of Justice. As always, his comments are indeed thought-provoking.

At the same time, I wish to commend all the members of the Court and the staff of the Registry for their tireless efforts and deep commitment to the promotion of the rule of law in relations among States.

I would also like to take this opportunity to congratulate Judge Shi Jiuyong, Judge Koroma, Ambassador Owada, Ambassador Tomka and Professor Simma on their recent election to that eminent judicial body. My delegation is confident that they will prove themselves to be invaluable assets to the international community.

My delegation notes from the Court's report the remarkable increase in the number of cases relating to armed conflict, as well as to land and maritime boundary delimitation, on the Court's docket. These issues are usually political sensitive; they can strain otherwise friendly relations among States and easily become real threats to the peace. In this context, my delegation would like to express its appreciation to the Court, as the principal judicial organ of this Organization, for its valuable contribution to the maintenance of international peace and security.

Furthermore, my delegation cannot fail to recognize that the Court has been instrumental in the development of international law by rendering judgment on contentious cases and issuing advisory opinions. The jurisprudence of the Court is regarded as an authoritative statement of the current state of international law and, at the same time, an inspiration for the progressive development of international law.

During the period under review, the Court reaffirmed and clarified customary international law with regard to the immunities of an incumbent Minister for Foreign Affairs in the Arrest Warrant case of the 11 April 2000. The Court found in its Judgment that incumbent Ministers for Foreign Affairs enjoy full immunity from criminal jurisdiction and inviolability abroad, and that the immunities accorded to them are not granted for their personal benefit, but rather to ensure the effective performance of their functions on behalf of their respective States.

My delegation welcomes the Court's findings in that case and would like to briefly mention the relationship between the rules on immunity and those on international accountability with respect to war crimes and crimes against humanity. As the Court stated, immunity does not lead to impunity for incumbent Foreign Ministers. An incumbent Foreign Minister can always be prosecuted in his or her own country or in other States if the State that he or she represents waives its immunity. However, as Judge Van den Wyngaert pointed out in his dissenting opinion, in cases where national authorities are not willing or able to investigate or prosecute the crime goes unpunished. In this connection, my delegation wishes to highlight the role that the International Criminal Court can play in such circumstances, since article 27 of the Rome Statute has laid down the irrelevance of official capacity.

My delegation notes with appreciation that the Court has made further efforts to improve its working methods and to accelerate its procedures. Those measures are part of a series of endeavours undertaken since 1997 to rationalize the work of the Court. We are only too well aware of the budgetary difficulties and the extremely heavy workload facing the Court. The Court increasingly finds itself unable to fulfil its mandate properly using its existing resources, whereas the rapid expansion of the Court's docket represents a positive indication of its prestige and authority. We cannot expect that the situation will be remedied by the Court's administrative efforts alone.

The international community is at a crucial juncture in its search for a better way to respond to the changing international environment. The International Court of Justice is now called upon to play a more active role than ever before in ensuring respect for international law and in the peaceful settlement of disputes between States. It is my delegation's firm belief that the Court deserves the full support of the international community and that it should be endowed with the necessary means to discharge its functions and obligations to the fullest measure.

In conclusion, my delegation would like to reaffirm its full support for and confidence in the invaluable work of the International Court of Justice in the promotion of the rule of law and world peace in international relations.

The President: We have heard the last speaker in the debate on agenda item 13.

May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 13?

It was so decided.

The meeting rose at 12.15 p.m.